

# Order

## Of the Bar Harbor Town Council

### For the June 8, 2010 Town Meeting

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot.

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### Warrant Article

**LAND USE ORDINANCE AND MAP AMENDMENT – Town Hill Village District and Map and Town Hill Mini-Plan** – Shall an Ordinance dated February 2, 2010 and entitled “An amendment to rezone parts of Town Hill into the Town Hill Village District,” along with an amendment to the 2007 Comprehensive Plan entitled “Town Hill Mini Plan” be enacted?

Note: This article proposes changes to the Land Use Ordinance and the Comprehensive Plan which affect Town Hill. The changes to both documents are being presented in the same articles so that the provisions of both documents will remain compatible, as required by state statute. If adopted, this article will also amend various definitions in the Land Use Ordinance.

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### Town Hill Village District and Map and Town Hill Mini-Plan

**An amendment to rezone parts of Town Hill into the Town Hill Village District and make amendments to the Neighborhood District map and an amendment to the 2007 Comprehensive Plan.**

*The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:*

[Please Note: Old language is ~~stricken~~. New language is underlined.]

## Chapter 125 , LAND USE ORDINANCE

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### ARTICLE III Land Use Activities and Standards

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#### § 125-44.1 Town Hill Village.

##### A. Purpose

The Town Hill Village District is the primary growth area for commercial development in Town Hill. It is also the center for social and cultural activity to its residents. Mixed use developments

*LUO Amendments: Town Hill Districts*

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that encourage commercial activity at the street level are desired. New development, redevelopment and infill development shall respect the existing scale of the village.

#### B. Dimensional Standards

- (1) Minimum lot size: 40,000 square feet
- (2) Minimum road frontage and lot width: 100 [feet].
- (3) Minimum front setback: 35 [feet].
- (4) Minimum side setback: 10 [feet].
- (5) Minimum rear setback: 10 [feet].
- (6) Maximum lot coverage: 50%
- (7) Maximum height: 35 [feet].
- (8) Minimum area per family: 20,000 square feet.

#### C. Allowed Uses

- (1) Uses in buildings up to 15,000 SF building footprint in total allowed by a building permit or a change of use permit by the Code Enforcement Officer: retail; municipal and government uses; restaurants; theaters; galleries; services; professional offices; vacation rentals; food-processing establishments; single and two-family dwellings; all bed & breakfast; cabins; artist studio; childcare centers; family childcare; all types of schools; commercial greenhouse & nursery; Eleemosynary, educational or scientific institution; farmer's market; museum; research facility
- (2) Uses in buildings up to 15,000 SF building footprint in total allowed by site plan review: medical clinics; motels; banks; multi-dwelling I and II; redemption centers
- (3) Uses in buildings greater than 15,000 SF building footprint in total allowed by a commercial PUD: retail; municipal and government uses; restaurants; theaters; galleries; professional offices; vacation rentals; food-processing establishments; single and two-family dwellings; all bed & breakfast; cabins; grocery stores; childcare centers; family childcare; all types of schools; commercial greenhouse & nursery; Eleemosynary, educational or scientific institution; farmer's market; liquor store; museum; research facility

#### D. Allowed Activities:

- (1) Activities allowed without a permit, provided it complies with all provisions of the Section 125: activities necessary for managing/protecting land; filling/earth moving activity less than 10 cubic yards; forest management activities except timber harvesting; non-intensive recreation uses not requiring structures; public utility installation.
- (2) Activities allowed by building permit and require approval of the Code Enforcement Officer: driveway construction; road construction (after subdivision

approval has been granted); filling/earth moving activity 10 cubic yards or more; essential services.

#### E. Other Requirements

- (1) All changes to facades and signs require Design Review Board approval.
- (2) Parking requirements shall follow the requirements found in Section 125-67 D.

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#### Article V Site Plan Review

##### § 125-69. Standards for particular uses, structures or activities.

Notwithstanding and in addition to any other provision of this chapter, before granting site plan approval for any land use activity described in this section, the Planning Board must find that the proposed plan will comply with such of the following standards as are applicable:

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#### V. Planned Unit Development - Commercial (PUD-C)

##### (1) Purpose and intent.

- (a) The purpose of the Planned Unit Development – Commercial is to provide an opportunity for large-scale development in the village of Town Hill to embody the principles of:

- [1] Clustering of buildings to create public spaces;
- [2] Compatible design with the environs;
- [3] Providing adequate access for area residents to local goods, services and employment; and
- [4] Reducing negative impacts to the environment from the development.

- (b) A PUD-C is also offered to seek development projects that:

- [1] Include housing;
- [2] Provide amenities for the residents in the Town Hill area;
- [3] Complement the visual character of the district; and
- [4] Encourage small business growth and development.

- (c) The intent of PUD-C is to review large scale development on a case by case basis which will benefit the Town as a whole. The PUD-C seeks to provide for enhanced planned developments by:

- [1] Allowing greater freedom of design;
- [2] Improving the opportunity for flexibility and creativity in the land development process; and

- [3] Undertaking techniques which foster community and pedestrian access.
- (2) District and authority.
- (a) The Planned Unit Development-Commercial is an overlay option to zoning in the Town Hill Village District. Any land zoned in shoreland shall continue to comply with Section 125-68.
- (b) Applicants shall permit a project as a PUD-C; for buildings greater than 15,000 in footprint in total.
- (c) The Planning Board is the permitting authority for a PUD-C; however, any other permits and approvals required must be sought and received by the applicant. A PUD-C does not relieve the applicant from obtaining any local, state and/or federal permits that may be required.
- (3) PUD-C process.
- (a) The PUD-C process shall include the requirements of a site plan and subdivision approval process (if applicable) as outlined in Articles V and VI. Any modification upon approval shall be subject to the requirements of § 125-58B.
- (b) In addition to Subsection S(3)(a) above, applicants shall prepare a site analysis diagram graphically identifying major physical features of the site, including but not limited to existing structures and improvements, land cover type, wetlands, watercourses and significant vernal pools, slopes greater than 20%, and district boundaries. The site analysis shall identify context of the neighborhood surrounding the project area by showing graphically the relationship of proposed new structures or alterations to nearby preexisting structures in terms of character and intensity of use (e.g., scale, materials, setbacks, roof and cornice lines, and other major design elements). The analysis shall also include a graphic illustration of the visual impacts and viewshed alterations that the proposed development will have on neighboring properties because of the location and configuration of proposed structures, parking areas, open space, and gradient changes.
- (c) Prior to submitting an application for a PUD-C, and after the submission of the sketch plan, the Planning Department will hold a neighborhood meeting. Abutters within 300 feet of the application parcel shall receive notice of this meeting.
- (4) Parcel size and eligibility.
- (a) The minimum size of a parcel seeking application for PUD-C shall be the minimum lot size in its neighborhood district.
- (b) The application parcel cannot contain in the aggregate more than 30% of the following land type(s):
- [1] Wetlands and significant vernal pools;
- [2] Sustained slopes greater than 20%;
- [3] Areas within 75 feet, horizontal distance, of the normal high water

line of a stream, great pond, river, saltwater body or significant vernal pool;

[4] Floodplains.

(c) An application for a PUD-C may consist of land in more than one ownership, provided that all land comprising the parcel lies entirely within the PUD-C overlay district and is contiguous. Lots separated by a minor street as defined may be considered contiguous for this purpose.

(d) Proposed developments may include preexisting buildings, provided that all PUD-C requirements are satisfied by each new or existing building and these are included in calculations for the PUD-C as a whole.

(5) Permitted uses. A PUD-C must comply with the allowed uses in the Town Hill Village.

(6) Intensity of development.

(a) Number of allowable dwelling units – the number of allowable dwelling units shall be calculated by dividing the minimum lot area per dwelling unit into the application parcel area.

(b) Minimum setback shall be established by the Planning Board to ensure the purpose and intent of the PUD-C is met.

(c) All free-standing signage shall be ground signs.

(d) PUD-C applications shall incorporate at least 3 of the following provisions.

[1] 20% affordable housing if residential housing is included in the application;

[2] 10% deeded open space;

[3] Active recreation space;

[4] The projects meets, either by application or by affidavit for adherence during construction, the standards of Leadership in Energy & Environmental Design of the U.S. Greenbuilding Council ("LEEDS") or an approved equivalent;

[5] Construction of new pedestrian amenities to connect the proposed development to other areas, amenities or goods and services;

[6] Formal access to public transportation;

[7] Restoration or preservation of an historic resource existing on the property;

[8] All public utilities, other than stormwater management systems, underground on the application parcel;

(e) The aggregate lot coverage of a PUD-C cannot exceed that of the neighborhood district.

(f) In no event shall height requirements be allowed to exceed the requirements of the underlying neighborhood district.

- (g) Other standards. The standards found in § 125-67 may be considered for modification in instances where the applicant adequately shows that the proposed application meets the purpose and intent of a PUD-C.
- (7) Criteria for approval.
  - (a) In reviewing PUD-C applications, the Planning Board shall use the requirements found in §§ 125-67 and 125-69 as applicable and as may be modified to meet the purpose and intent of a PUD-C
  - (b) The Planning Board also shall use the requirements of § 125-68, which shall not be modified, for review of property in a shoreland zone(s) as may be applicable.
  - (c) All Planning Board approvals of PUD-Cs are contingent upon the development meeting the express purpose and intent of a PUD-C.

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## ARTICLE XII Construction and Definitions

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### **§ 125-109 Definitions.**

The following terms shall have the following meanings:

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BED and BREAKFAST I – Overnight accommodations of no more than 5 rooms and a morning meal in an owner-occupied dwelling unit constructed before June xxx, 2010, provided to transients for compensation. Breakfast is included in the room rate.

BED and BREAKFAST II – Overnight accommodations and a morning meal in a dwelling unit occupied by the owner/innkeeper or a designated employee constructed before June xxx, 2010, provided to transients for compensation. Breakfast is included in the room rate.

BED and BREAKFAST III – Overnight accommodations and a morning meal in a dwelling unit occupied by the owner/innkeeper or a designated employee provided to transients for compensation. Breakfast is included in the room rate.

BED and BREAKFAST IV – Overnight accommodations, a morning meal, and additional meals in a dwelling unit occupied by the owner/innkeeper or a designated employee constructed before June xxx, 2010, provided to transients for compensation. Breakfast is included in the room rate. The meals may be open to the public.

BED and BREAKFAST V – Overnight accommodations, a morning meal, and additional meals in a dwelling unit occupied by the owner/innkeeper or a designated employee provided to transients for compensation. Breakfast is included in the room rate. The meals may be open to the public.

CABINS - - free-standing dwelling units or cottages on a parcel; said units are subject to seasonal closure

CHILD CARE CENTER - A building for providing care and protection for 3 or more children under 13 years of age.

FAMILY CHILD CARE - Care and protection that is provided in a dwelling unit on a regular basis, for 3 to 12 children under 13 years of age who are not the children of the provider or who are not residing in the provider's dwelling. If a provider is caring for children living in that provider's home and is caring for no more than 2 other children, then the use is customary to a dwelling unit and is not regulated herein.

FOOD PROCESSING ESTABLISHMENT – An establishment in which food or beverages are processed or otherwise prepared for eventual human consumption and may be served or sold on the premises; in the downtown village district, this use shall not include fresh or frozen fish, meat or poultry processing

GALLERY – A retail establishment primarily engaged in the sale of drawings, photography, paintings, sculpture and the like to customers for their own individual or household use. Accessory uses may include restaurant.

MOTEL – A facility providing sleeping accommodations for transients with additional accessory facilities and services available to transients at the motel only.

PROFESSIONAL OFFICE BUILDING -- A building in which there is located the office of a professional, such as an architect, accountant, dentist, ~~doctor of medicine~~, lawyer, and the like, or in which a business conducts its administrative, financial or clerical operations, but not including any manufacturing or sale of goods or merchandise.

SERVICES – Establishments primarily engaged in providing assistance, as opposed to products, to individuals, business, industry, government and other enterprises

TRANSIENT -- A person staying at a place that does not constitute his or her home or usual dwelling unit for less than 30 days.

TRANSIENT ACCOMMODATIONS – a collective term to describe Bed & Breakfast, Hotels, Motels and Conference Centers

A. ~~TA 1 – Bed and breakfast accommodations in the private, year-round residence of the host family who live on the premises (one to three rooms; maximum six guests). Breakfast is the only meal provided.~~

B. ~~TA 2 – A building or buildings where for compensation lodging is provided (four to 25 rooms). No meals are served.~~

C. ~~TA 3 – An existing building, constructed and completed prior to June 10, 1986, where for compensation lodging is provided (four to 10 rooms). TA 3 is permitted in districts where it is felt that lodging for transients is necessary to preserve or maintain many of Bar Harbor's residential structures: [Amended 11-5-1991; 11-2-2004]~~

(1) ~~No building shall be expanded in floor area or volume by more than 10% over the lifetime of the building;~~

- (2) ~~There shall not be constructed any exterior stairway or fire escape enclosed or otherwise above the ground floor visible from the street on which the building fronts; and~~
- (3) ~~Breakfast is the only meal provided.~~
- D. ~~TA 4 An existing building, constructed and completed prior to June 10, 1986, where for compensation lodging is provided (11 to 25 rooms). TA 4 is permitted in districts where it is felt that lodging for transients is necessary to preserve or maintain many of Bar Harbor's residential structures: [Amended 11-5-1991; 11-2-2004]~~
- (1) ~~No building shall be expanded in floor area or volume by more than 10% over the lifetime of the building;~~
- (2) ~~There shall not be constructed any exterior stairway or fire escape enclosed or otherwise above the ground floor visible from the street on which the building fronts; and~~
- (3) ~~Breakfast is the only meal provided.~~
- E. ~~TA 5 A building or buildings where for compensation lodging and one or more meals for guests only are provided (four to 25 rooms). [Amended 5-6-2002]~~
- F. ~~TA 6 An existing building, constructed and completed prior to June 10, 1986, where for compensation lodging and meals for guests only are provided (four to 25 rooms). TA 6 is permitted in districts where it is felt that lodging for transients is necessary to preserve or maintain many of Bar Harbor's residential structures: [Amended 11-5-1991; 11-2-2004]~~
- (1) ~~No building shall be expanded in floor area or volume by more than 10% over the lifetime of the building;~~
- (2) ~~There shall not be constructed any exterior stairway or fire escape enclosed or otherwise above the ground floor visible from the street on which the building fronts.~~
- G. ~~TA 7 A building or buildings where for compensation lodging and meals are provided (four to 25 rooms). Accessory uses subject to site plan review include restaurant, gift shop and the like.~~
- H. ~~TA 8 A building or buildings where for compensation lodging and meals are provided (25 or more rooms). Accessory uses subject to site plan review include restaurant, cocktail lounge, gift shop, conference room, recreational facilities, such as swimming pool, game courts, and recreational rooms, and the like.~~

## MAP AMENDMENT

*Assign the Town Hill Village District to the following Property Tax Map and Lot numbers pursuant the Proposed Zoning Changes map created on February 2, 2010:*

Map-Lot	Map-Lot	Map-Lot	Map-Lot
227-031-000	227-033-000	227-092-000	227-018-001
227-030-000	227-036-000	227-091-000	227-019-000
227-029-000	227-035-000	227-016-000	227-087-000
227-010-000	227-044-000	227-017-000	227-086-000
227-009-000	227-043-000	227-018-004	227-085-000



Map-Lot	Map-Lot	Map-Lot	Map-Lot
227-011-000	227-042-000	227-018-003	227-084-000
227-015-000	227-060-000	227-090-000	227-083-000
227-012-000	227-061-000	227-089-000	227-032-000
227-013-000	227-041-000	227-088-000	227-040-000
227-020-000			

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**EXPLANATION:** This article proposes changes to the Land Use Ordinance and the Comprehensive Plan which affect Town Hill. The changes to both documents are being presented in the same articles so that the provisions of both documents will remain compatible, as required by state statute. If adopted, this article will also amend various definitions in the Land Use Ordinance

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Given under our hands and seal at Bar Harbor this ninth day of February 2010.

### Municipal Officers of the Town of Bar Harbor

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Sandy McFarland, Chair

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Ruth A. Eveland, Vice Chair

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Jane Disney, PhD.

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Robert L. Jordan, Jr.

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Peter St. Germain

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Greg Veilleux

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Paul A. Paradis, Secretary